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ABBE DAVID LOWELL

September 6, 2023

**VIA ECF**

Hon. John G. Koeltl  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

***Re: Banco San Juan Internacional, Inc. v. the Federal Reserve Bank of New York and the Board of Governors of the Federal Reserve System, No. 1:23-cv-6414 (JGK)***

Dear Judge Koeltl:

Counsel for Plaintiff Banco San Juan Internacional, Inc. (“BSJI”) writes pursuant to Section VI.2 of the Court’s Individual Practices to request leave to file under seal certain information in support of BSJI’s brief in further support of its motion for a preliminary injunction, filed September 6, 2023 (“Reply Brief”). The parties have conferred and Defendants do not object to this motion.

In particular, BSJI seeks permission to file the following documents under seal or with appropriate redactions: (1) Reply Brief, (2) Exhibits A and B to Declaration of Abbe D. Lowell in Support of Plaintiff’s Reply Brief, (3) Supplemental Declaration of Hector J. Vazquez and accompanying Exhibits A-G, (4) Second Supplemental Declaration of Christopher Laursen and accompanying Exhibits A and B, and (5) Exhibit A to AML RightSource Independent Review Audit Report Attestation.

These materials contain non-public, commercial information about BSJI, including recent financial data, information about its compliance program, references to supervisory information, information specific to BSJI’s customers and customer transaction activity, and information from or shared with BSJI’s Supervisor, the Office of the Commissioner of Financial Institutions of Puerto Rico (“OCIF”). Courts enjoy broad discretion in sealing documents upon a showing of good cause. *See, e.g., Geller v. Braniff Int’l Realty Corp.*, 212 F.3d 734, 738 (2d Cir. 2000).

At the outset of this matter, before it was assigned to Your Honor, the Honorable Judge Loretta Preska found good cause existed to keep these types of materials under seal and BSJI received permission to redact or file under seal highly sensitive, confidential information concerning BSJI’s operations, clients, and interactions with its regulator. On July 24, 2023, Judge Preska found that, “the bank secrecy laws of Puerto Rico prohibit disclosure of confidential BSJI customer account information” and that “Second Circuit precedent protects BSJI customers’

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personal information and BSJI's sensitive confidential business information." Case No. 1:23-mc-00241-LAP (ECF No. 3). In accordance with that July 24, 2023 Order, this Court also granted the FRBNY's motion to seal (ECF No. 50) on August 23, 2023. *See* ECF No. 60. The materials BSJI now seeks to file are consistent with the information currently under seal.

In particular, BSJI seeks to seal communications with its regulator, OCIF, exchanging non-public information and otherwise redact documents making references to such communications. Disclosure of such information would violate Puerto Rican law. *See* Article 10(b)(9) of Regulation 5653 ("Any study, finding, conclusion and recommendations the Commissioner or his representatives may make with regards to any application to establish a Branch shall be considered privileged and confidential by nature and shall not be disclosed.").

BSJI also seeks to seal sensitive commercial information included in private examiners' reports. The detailed reports contain non-public information regarding BSJI's compliance programs and business operations, which, if exposed, would inhibit BSJI from successful competition in the marketplace. *See Valassis Commc'ns, Inc. v. News Corp.*, No. 17-CV-7378 (PKC), 2020 WL 2190708, at \*3 (finding that the "interest in protecting the sensitive business information of its active business units, such as the financial metrics..., outweighs the public's presumed right of access"); *Skyline Steel, LLC v. PilePro, LLC*, 101 F.Supp.3d 394, 412-13 (S.D.N.Y. 2015).

BSJI additionally seeks to seal documents containing sensitive confidential customer information such as names, account balance amounts, and transaction histories. Disclosing such information violates individuals' privacy interests. *See United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995) (courts routinely recognize that sensitive personal information may constitute a "privacy interest" which supports the sealing of documents in instances where there are concerns relating to "financial records of a wholly owned business, family affairs, illnesses, embarrassing conduct.")). Disclosing such information is also prohibited under Article 12 of Regulation 5653 of the International Banking Center Regulatory Act of Puerto Rico, which mandates that "information related to the identity, financial statements, transactions and client's accounts obtained by the directors, officers, employees and agents of the IBE or persons involved with its business such as lawyers, auditors or accountants and others, shall be kept confidential[.]"

BSJI has narrowly tailored its request to file certain exhibits either redacted or under seal and redact references to such documents in its Reply Brief and certain declarations to protect the privacy interests of third parties and prevent any competitive harm by disclosing commercially sensitive information.

Accordingly, BSJI respectfully submits that there is good cause to grant its motion for leave to file under seal.

Respectfully submitted,

/s/ Abbe D. Lowell

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cc: Counsel for All Parties (via ECF)